

IN THE DISTRICT COURT IN AND FOR

WATER DIVISION NO. 1

STATE OF COLORADO

Case No. W-8001(75)

IN THE MATTER OF THE)	
APPLICATION FOR WATER)	FINDINGS OF FACT,
RIGHTS OF PINWOOD)	CONCLUSIONS OF LAW,
SPRINGS CORP.)	AND DECREE APPROVING
)	PLAN FOR AUGMENTATION
IN BOULDER AND LARIMER)	INCLUDING EXCHANGE
COUNTIES.)	

THIS MATTER, having come on for hearing on 1976, upon the application of Pinewood Springs Corp. for approval of a plan for augmentation including exchange which was filed herein on July 31, 1975, and the Court having considered the pleadings, the files herein, and the evidence presented, FINDS:

1. Timely and adequate notice of the application filed herein was given in the manner required by law, and the Water Judge sitting in this Court has jurisdiction over the subject matter of this proceeding and over all parties affected hereby, whether they have appeared or not. A statement of opposition was filed herein on behalf of the State Engineer of the State of Colorado. No other party has entered an appearance herein, and the time for filing statements of opposition has expired.

2. Applicant owns the following water rights:

A. Pinewood Springs Municipal Water System.

Applicant is the owner of the following adjudicated wells and springs, each of which was decreed for domestic use as part of the Pinewood Springs Municipal Water System pursuant to this Court's Decree entered in Case No. W-3526 on September 19, 1973 (all locations are in T4N, R71W, 6th P.M., in Larimer County):

(1) Pinewood Springs Well No. 1

Amount: 0.0111 cfs .

Appropriation date: July 14, 1966.

Location: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
1790 feet from the north line and
960 feet from the east line of
said Section.

Permit No.: 11070-F.

(2) Pinewood Springs Well No. 2

Amount: 0.0044 cfs.

Appropriation date: December 31, 1959.

Location: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
2270 feet from the north line and
1750 feet from the east line of
said Section.

Permit No.: 46217.

(3) Pinewood Springs Well No. 3

Amount: 0.0044 cfs.

Appropriation date: December 31, 1959.

Location: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
2320 feet from the north line and
1750 feet from the east line of
said Section.

Permit No.: 46216.

(4) Pinewood Springs Well No. 4

Amount: 0.0022 cfs.

Appropriation date: July 13, 1966.

Location: SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
2320 feet from the north line and
1585 feet from the east line of
said Section.

Permit No.: 11071.

- (5) Pinewood Springs Well No. 5
Amount: 0.0044 cfs .
Appropriation date: July 6, 1966.
Location: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
1940 feet from the north line and
370 feet from the east line of
said Section.
Permit No.: 27923.
- (6) Pinewood Springs Well No. 6
Amount: 0.0044 cfs.
Appropriation date: December 19, 1967.
Location: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, at a point
920 feet from the north line and
1585 feet from the west line of
said Section.
Permit No.: 12509-F.
- (7) Pinewood Springs Well No. 7
Amount: 0.0066 cfs.
Appropriation date: January 17, 1969.
Location: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, at a point
2110 feet from the south line and
1490 feet from the west line of
said Section.
- (8) Pinewood Springs Well No. 8
Amount: 0.0044 cfs.
Appropriation date: October 6, 1969.
Location: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, at a point
1470 feet from the south line and
2080 feet from the west line of
said Section.
Permit No.: 14295-F.

- (9) Pinewood Springs Well No. 9
Amount: 0.0066 cfs.
Appropriation date: September 4, 1962.
Location: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
1990 feet from the north line and
200 feet from the east line of
said Section.
Permit No.: 13341.
- (10) Pinewood Springs Well No. 10
Amount: 0.0222 cfs.
Appropriation date: December 31, 1962.
Location: NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, at a point
5 feet from the north line and
1315 feet from the west line of
said Section.
- (11) Pinewood Springs Well No. 11
Amount: 0.0155 cfs.
Appropriation date: December 20, 1967.
Location: NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 28, at a point
950 feet from the north line and
1840 feet from the east line of
said Section.
Permit No.: 12510-F.
- (12) Pinewood Springs Well No. 12
Amount: 0.0044 cfs.
Appropriation date: October 17, 1970.
Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, at a point
1540 feet from the south line and
270 feet from the east line of
said Section.
Permit No.: 43460.

(13) Pinewood Springs Spring No. 1

Amount: 0.0022 cfs.

Appropriation date: June 30, 1964.

Location: SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 21, at a point
350 feet from the south line and
1770 feet from the east line of
said Section.

(14) Pinewood Springs Spring No. 2

Amount: 0.0044 cfs.

Appropriation date: June 30, 1959.

Location: NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 32, at a point
3610 feet from the north line and
520 feet from the east line of
said Section.

(15) Pinewood Springs Spring No. 3

Amount: 0.0044 cfs.

Appropriation date: June 30, 1961.

Location: SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 32, at a point
1950 feet from the north line and
870 feet from the east line of
said Section.

Applicant also is the owner of the following unadjudicated wells which are used to supply its municipal water system (all locations are in T4N, R71W, 6th P.M., in Larimer County):

(1) Pinewood Springs Well No. 13

Amount: 3.0 g.p.m.

Location: SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 29, at a point
850 feet from the south line and
400 feet from the east line of
said Section.

Permit No.: 017970-F.

(2) Pinewood Springs Well No. 14

Amount: 2.0 g.p.m.

Location: NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, at a point
1870 feet from the south line and
1020 feet from the west line of
said Section.

Permit No.: 017969-F.

(3) Pinewood Springs Well No. 15

Amount: 4.0 g.p.m.

Location: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, at a point
1440 feet from the north line and
1320 feet from the west line of
said Section.

Permit No.: 017968-F.

An application to adjudicate said three wells is pending in this Court in Case No. W-8014(75).

B. Pinewood Springs Reservoir.

Applicant will construct Pinewood Springs Reservoir, an off-stream reservoir which will be located within the Pinewood Springs Subdivision, in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, T4N, R71W of the 6th P.M. The reservoir will have a storage capacity of approximately twenty (20) acre-feet, and will store water from the drainage basin of Little Elk Park, which is tributary to the Little Thompson River. An application for a conditional water right for said reservoir is pending in this Court in Case No. W-8017(75).

C. Culver Irrigation Company.

Applicant is the owner of seven (7) shares of the capital stock of the Culver Irrigation

Company, a mutual ditch company. There are 150 shares of stock of said ditch company outstanding. The Culver Irrigation Company owns the following water rights decreed to the Culver and Mahoney Ditch out of the Little Thompson River for irrigation purposes pursuant to Decree entered in Boulder County District Court on May 28, 1883:

(1) Original Construction

Amount: 19.5 cfs.

Appropriation date: April 15, 1867.

(Priority No. 2 on Little Thompson River).

(2) First Enlargement

Amount: 19.5 cfs.

Appropriation date: April 30, 1875.

Pursuant to Transfer Decree entered in Boulder County District Court on August 18, 1913, the point of diversion of these water rights was changed to the headgate of the Supply Lateral Ditch, located on the north bank of the Little Thompson River at a point in the NE¹/₄NW¹/₄, Sec. 2, T3N, R70W, whence the NW corner of said Section bears north 54°4' west, a distance of 1420 feet. The Supply Lateral Ditch is now known as the Culver Lateral. (Applicant also owns one share of the capital stock of the Culver Lateral Ditch Company, a carrier ditch company.) The estimated historic average annual consumptive use associated with each share of Culver Irrigation Company stock is 6.27 acre-feet, or 43.85 acre-feet for seven shares. The estimated minimum annual consumptive use associated with each share of Culver Irrigation Company stock based on the dry year of record

(1954), is 2.33 acre-feet, or 16.32 acre-feet for seven shares. The historic irrigation season for Culver Irrigation Company comprises approximately 150 days. The Board of Directors of the Culver Irrigation Company has approved Applicant's use of said shares for the purposes of the plan for augmentation set forth herein.

3. Applicant is the developer of Pinewood Springs Subdivision, which is located adjacent to Colorado Highway 36 approximately 8 miles northwest of Lyons and 12 miles southeast of Estes Park. It encompasses approximately 700 acres in Sections 21, 28, 29, 32 and 33, T4N, R71W, 6th P.M., in Larimer County, Colorado. These lands have been platted by recorded subdivision plats, Pinewood Springs Subdivision, Filings 1-12, the first plats having been filed in 1959. The first homes in the subdivision were constructed in 1959. Lots in the subdivision range in size from one-half acre to six acres. At the present time 131 single-family residential units are served by Applicant's water system. At full development a maximum of 350 single-family equivalent residential units could be served, including presently unplatted commercial areas.

4. The water supply for Pinewood Springs Subdivision is furnished through a central system supplied by the existing low-yield wells and springs listed in paragraph 2 herein. The wells are constructed into the fractured granite formation. As the number of taps served by Applicant's water system increases, Applicant will supplement the subdivision's existing water supply by constructing wells and/or a collection gallery in the alluvium of the Little Thompson River. Additional wells may also be constructed into the fractured granite formation.

5. Based on actual use of the Pinewood Springs water system since 1959 or 1960, each single-family equivalent residential unit requires an average of 200 gallons of water per day of occupancy. At the present time, approximately sixty (60) per-cent of the homes at Pinewood Springs are occupied year-around; the remaining forty (40) per-cent are vacation-weekend homes occupied

approximately twenty (2.0) per-cent of each year. The covenants for Pinewood Springs Subdivision restrict use of water furnished by Applicant's central water system to in-house uses only.

6. The 131 lots presently served by Applicant's central water system utilize individual septic tank-leach field sanitary systems. At full development, it is estimated that a maximum of ten (10) lots served by Applicant's central water system may utilize haul-away vault or evapotranspiration septic systems. It is estimated that ninety (90) per-cent of the water delivered to taps utilizing septic tank-leach field sanitary systems is returned to the Little Thompson River. It is assumed that any future units which utilize haul-away vaults or evapotranspiration systems will be 100 per-cent consumptive.

7. The total annual consumptive use by the units presently served by the Pinewood Springs water system is estimated to be 2.0 acre-feet. Of this, approximately forty (40) per-cent, or 0.80 acre-foot, occurs during the 150-day historic irrigation season of the Culver Irrigation Company, and approximately sixty (60) per-cent, or 1.20 acre-feet occurs during the non-irrigation season. The total projected annual consumptive use by the maximum 350 single-family equivalent residential units to be served by the system, assuming 100 per-cent year-around occupancy, a daily water requirement of 200 gallons per unit, and ten (10) units utilizing 100 per-cent consumptive haul-away vault or evapotranspiration systems, is 9.86 acre-feet. Of this, approximately 4.05 acre-feet would occur during the irrigation season, and 5.81 acre-feet during the non-irrigation season.

8. In order to assure that no injury to vested water rights or decreed conditional water rights will result from ground water withdrawals to provide a reliable in-house use only municipal water supply to a maximum of 350 single-family equivalent residential units in the above-described subdivision, and in

order to assure that such ground water withdrawals will not be curtailed in times of shortage, Applicant has proposed the following plan for augmentation:

A. Applicant will construct Pinewood Springs Reservoir, which will have a storage capacity of approximately twenty (20) acre-feet, at a site within Pinewood Springs Subdivision, in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 28, T4N, R71W of the 6th P.M. The reservoir will store water from the approximate 660-acre drainage basin of Little Elk Park, which is tributary to the Little Thompson River. The proposed dam site lies less than 1/8 mile above the Little Thompson River. The reservoir will have a surface area of approximately two acres, with an estimated net effective annual evaporation loss of four acre-feet. An application for an independent conditional storage right for the proposed reservoir is pending in this Court in Case No. W-8017(75), but the operation of the plan for augmentation proposed herein does not depend on such independent storage right as a source of water.

B. Diversions through the headgate of the Culver Lateral Ditch will be reduced by the amount of water to which Applicant is entitled by virtue of its ownership of seven (7) shares of the capital stock of the Culver Irrigation Company. Based on the historic minimum year consumptive use associated with said seven (7) shares of stock, said reduction in diversions will make 16.32 acre-feet of water available annually to replace depletions to the Little Thompson River resulting from water usage by said Subdivision.

C. Water will be stored in Pinewood Springs Reservoir in exchange for portions of said 16.32 acre-feet for subsequent release to the Little Thompson River at the

direction of the Division Engineer for Water Division No. 1 to replace depletions resulting from water usage by the Pinewood Springs Subdivision. There are no appropriators between the point at which releases from Pinewood Springs Reservoir will reach the Little Thompson River and the headgate of the Culver Lateral, approximately eight miles downstream.

D. Depletions by the Pinewood Springs Subdivision during the 150-day irrigation season each year will be replaced by said reduced diversions at the headgate of the Culver Lateral. Such depletions will equal approximately forty (40) per-cent of the total depletions by the subdivision each year. The amount by which 16.32 acre-feet exceeds said irrigation season depletions each year will be stored by exchange in Pinewood Springs Reservoir. Depletions by the subdivision during the non-irrigation season each year will be replaced by releases from storage at the direction of the Division Engineer for Water Division No. 1. Such depletions will equal approximately sixty (60) per-cent of the total depletions by the subdivision each year.

E. The total amount of depletions by the Pinewood Springs Subdivision to be replaced each year will be determined as follows:

1). Until such time as wells and/or a collection gallery are constructed in the alluvium of the Little Thompson River, Applicant will replace to the Little Thompson River the estimated depletions by the 131 units served by the Pinewood Springs Municipal Water System at the present time in the amount of 2.0 acre-feet; plus .0224 acre-foot times the number of additional single-family equivalent

residential units utilizing septic tank-leach field sewage systems which are served by said water system on January 1 of each year; plus .224 acre-foot times the number of such units utilizing evapotranspiration septic systems which are served by said water system on January 1 of each year. On or before February 1 of each year, Applicant will certify in writing to the Division Engineer for Water Division No. 1 the number of single-family equivalent residential units served by the Pinewood Springs Municipal Water System on January 1 of such year, including the number of such units which utilize evapotranspiration septic systems.

2). Beginning in the year during which wells and/or a collection gallery are constructed in the alluvium of the Little Thompson River and are used to supplement the water supply of the Pinewood Springs Municipal Water System, in order to compensate for total depletions by the Pinewood Springs Subdivision, including depletions resulting from the time lag between such alluvial diversions and septic system return flows, and in order to simplify the administration of this plan for augmentation, Applicant will replace each year the total amount of ten (10.0) acre-feet of water, subject to the following conditions:

a). If during any year the sum of:

- (1) 2.0 acre-feet, which equals the annual depletions by the 131 units presently served by said water system; plus
- (2) .0224 acre-foot times the number of additional single-family equivalent residential units utilizing septic tank-leach field sewage systems which are served by said water system on January 1 of such year; plus

(3) .224 acre-foot times the number of additional single-family equivalent residential units utilizing evapotranspiration septic systems which are served by said water system on January 1 of such year; plus

(4) 90 per-cent of the amount by which total diversions through such alluvial wells and/or collection gallery to serve such units utilizing septic tank-leach field sewage systems during the consecutive three-year period ending in such year exceed such total diversions during the preceding consecutive three-year period;

exceeds ten (10.0) acre-feet, then Applicant will replace, for a period of three consecutive years, an additional amount of water equal to such excess above ten (10.0) acre-feet.

b). Beginning three years following the year in which 350 single-family equivalent residential units are served by the Pinewood Springs Municipal Water System, or following the year in which the Pinewood Springs Subdivision reaches full development as defined in paragraphs 8(H) and 20 herein, Applicant will not in any year be required to replace in excess of ten (10.0) acre-feet of water unless the actual total annual depletions by such units served by said water system are determined by the Division Engineer for Water Division No. 1 to exceed ten (10.0) acre-feet because a) total annual diversions to supply said water system exceed 78.4 acre-feet, or b) the number of such units utilizing evapotranspiration septic systems exceeds eleven (11), or both.

If such actual total annual depletions are determined by the Division Engineer for Water Division No. 1 to exceed ten (10.0) acre-feet for one or both of the foregoing reasons, Applicant will be required to replace an additional amount of water equal to the amount by which ten (10.0) acre-feet is exceeded by the sum of: a) ten (10) per-cent of such diversions in excess of 78.4 acre-feet; plus b) ninety (90) per-cent of the amount of such diversions in excess of 78.4 acre-feet which is attributable to those such units in excess of eleven (11) utilizing evapotranspiration septic systems.

c). Said wells and/or collection gallery to be constructed in the alluvium of the Little Thompson River will be equipped with totalizing flow meters approved by the Division Engineer for Water Division No. 1. On or before February 1 of each year, Applicant will certify in writing to said Division Engineer the total amount of diversions through said wells and/or collection gallery during the preceding calendar year, as shown on said totalizing flow meters.

3). During years when the total amount of depletions required to be replaced by Applicant equals ten (10.0) acre-feet, four (4.0) acre-feet of said amount will be replaced by reduced diversions at the headgate of the Culver Lateral Ditch, and six (6.0) acre-feet will be released from Pinewood Springs Reservoir at the direction of the Division Engineer for Water Division No. 1. During years when the total amount of such depletions is more or less than ten (10.0) acre-feet, forty (40) per-cent of such depletions will be replaced by reduced diversions at the headgate of said Ditch, and sixty (60) per-cent of such depletions

will be replaced by releases from said Reservoir at the direction of said Division Engineer.

F. A measuring device approved by the Division Engineer for Water Division No. 1 will be installed at the outlet of Pinewood Springs Reservoir in order to measure releases into the Little Thompson River.

G. Usage of water supplied by Applicant's central water system will be restricted to in-house uses only. This restriction is also contained in the existing covenants for Pinewood Springs Subdivision. Applicant will be responsible for compliance with this and all other conditions of the plan for augmentation set forth herein.

H. Applicant's seven (7) shares of the capital stock of the Culver Irrigation Company will remain available for the purposes of the plan for augmentation set forth herein until three years after full development in the Pinewood Springs Subdivision has been reached, or until said plan is no longer in effect, whichever occurs first. From and after three years following the date on which full development in said Subdivision has been reached and so long thereafter as said plan for augmentation remains in effect, six (6) shares of said stock will remain available for the purposes of said plan and will not be conveyed or used for any other purpose. For the purposes of this Decree, full development in said Subdivision will have been reached when the Pinewood Springs Municipal Water System is serving the maximum number of single-family equivalent residential units which may be served in said Subdivision as presently platted, or as it may be replatted to reduce the total number of such units which may be served. If the official plats for said

Subdivision should be amended to reduce the total number of such units which may be served so that less than six (6) shares of said stock are necessary to replace depletions by said Subdivision at full development this . Decree may be amended accordingly upon proper application to this Court.

9. The Court finds that pursuant to the operation of the plan for augmentation including exchange proposed by Applicant herein, and by imposition of the conditions set forth in these Findings, ground water withdrawals to provide a municipal water supply for the Pinewood Springs Subdivision will not result in material injury to vested water rights or decreed conditional water rights on the Little Thompson River or in the drainage of the South Platte River, and that such ground water withdrawals need not be curtailed in times of shortage so long as said plan for augmentation including exchange is in operation and the conditions contained herein are complied with.

10. The Court finds, as a matter of hydrological and geological fact, that pursuant to the operation of the plan for augmentation including exchange set forth herein, there is water available for the ground water withdrawals contemplated herein, and that no material injury to vested water rights or decreed conditional water rights in the South Platte River or its tributaries will result therefrom.

11. The Court further finds that the plan for augmentation including exchange proposed by Applicant herein will maximize the beneficial use of water and will increase the supply of water available for beneficial use in Water Division 1, as contemplated in C.R.S. 1973, 37-92-102, 103(9).

CONCLUSIONS OF LAW

The Court concludes, as a matter of law:

12. The plan for augmentation including exchange proposed herein by Applicant is one contemplated by law, and if administered in accordance with this decree, will permit the depletions associated with the provision of a domestic, commercial and municipal water supply to 350 single-family equivalent residential units in the Pinewood Springs Subdivision described herein, without material injury to any vested or decreed conditional water rights in the South Platte River or its tributaries.

13. The State Engineer may lawfully be required under the terms of this decree to administer the plan for augmentation including exchange in the manner set forth herein, and in times of shortage not to curtail diversions through the wells and collection gallery to be used to provide a domestic, commercial and municipal water supply to 350 single-family equivalent residential units in the Pinewood Springs Subdivision described herein, the depletions from which are compensated for by the operation of said plan for augmentation including exchange.

DECREE

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

14. The plan for augmentation including exchange proposed herein by Applicant is hereby approved.

15. So long as the plan for augmentation including exchange approved herein remains in force and effect, diversions through the headgate of the Culver Lateral Ditch shall be reduced by the amount of water which bears the same proportion to the total amount of water which said Ditch would otherwise be entitled to divert as the number of Applicant's shares of the capital stock of the Culver Irrigation Company which are required by this Decree to remain available for the purposes of said plan bear to the 150 total outstanding shares of stock in said Company. Applicant's

seven (7) shares of said stock equal 4.67 per-cent of the total outstanding shares of said stock; six (6) shares of said stock equal 4.0 per-cent of the total outstanding shares of said stock. Until three years after full development, as defined in Paragraphs 8A and 20 herein, has been reached in the Pinewood Springs Sub-division, diversions through said Ditch shall be reduced by the amount of water allocated to Applicant's seven (7) shares of said stock. Reduction in such diversions by the amount of water allocated to seven (7) shares shall entitle Applicant to use 16.32 acre-feet of water thereby made available for replacement of depletions to the Little Thompson River by said Subdivision and for storage, by exchange, in Pinewood Springs Reservoir. So long as such diversions are reduced by the amount of water allocated to said seven (7) shares, Applicant shall be entitled to store in said Reservoir each year, by exchange, the amount by which 16.32 acre-feet exceeds forty (40) per-cent of said depletions which Applicant is required in accordance with this Decree to replace during such year. If after full development has been reached in said Subdivision, one (1) share of said stock is conveyed or used for another purpose by Applicant so that such diversions are reduced by the amount of water allocated to six (6) of said shares, Applicant shall be entitled to store in said Reservoir each year, by exchange, the amount by which 14.0 acre-feet exceeds forty (40) per-cent of said depletions which are required to be replaced each year.

16. Applicant shall be required each year to replace depletions to the Little Thompson River resulting from ground water diversions to supply the Pinewood Springs Subdivision in amounts to be determined as follows:

A. Until such time as wells and/or a collection gallery are constructed in the alluvium of the Little Thompson River, Applicant shall replace to the Little Thompson River the estimated depletions by the 131 units served by the Pinewood Springs Municipal Water System at the present time in the amount of 2.0 acre-

feet; plus .0224 acre-foot times the number of additional single-family equivalent residential units utilizing septic tank-leach field sewage systems which are served by said water system on January 1 of each year; plus .224 acre-foot times the number of such units utilizing evapotranspiration septic systems which are served by said water system on January 1 of each year. On or before February 1 of each year, Applicant shall certify in writing to the Division Engineer for Water Division No. 1 the number of single-family equivalent residential units served by the Pinewood Springs Municipal Water System on January 1 of such year, including the number of such units which utilize evapotranspiration septic systems.

B. Beginning in the year during which wells and/or a collection gallery are constructed in the alluvium of the Little Thompson River and are used to supplement the water supply of the Pinewood Springs Municipal Water System, in order to compensate for total depletions by the Pinewood Springs Subdivision, including depletions resulting from the time lag between such alluvial diversions and septic system return flows, and in order to simplify the administration of this plan for augmentation, Applicant shall replace each year the total amount of ten (10.0) acre-feet of water, subject to the following conditions:

- 1). If during any year the sum of:
 - (a) 2.0 acre-feet, which equals the annual depletions by the 131 units presently served by said water system; plus
 - (b) .0224 acre-foot times the number of additional single-family equivalent residential units utilizing septic tank-leach field sewage systems which are served by said water system on January 1 of such year; plus

(c) .224 acre-foot times the number of additional single-family equivalent residential units utilizing evapotranspiration septic systems which are served by said water system on January 1 of such year; plus

(d) 90 per-cent of the amount by which total diversions through such alluvial wells and/or collection gallery to serve such units utilizing septic tank-leach field sewage systems during the consecutive three-year period ending in such year exceed such total diversions during the preceding consecutive three-year period;

exceeds ten (10.0) acre-feet, then Applicant shall replace, for a period of three consecutive years, an additional amount of water equal to such excess above ten (10.0) acre-feet.

2). Beginning three years following the year in which 350 single-family equivalent residential units are served by the Pinewood Springs Municipal Water System, or following the year in which the Pinewood Springs Subdivision reaches full development as defined in paragraphs 8(H) and 20 herein, Applicant shall not in any year be required to replace in excess of ten (10.0) acre-feet of water unless the actual total annual depletions by such units served by said water system are determined by the Division Engineer for Water Division No. 1 to exceed ten (10.0) acre-feet because a) total annual diversions to supply said water system exceed 78.4 acre-feet, or b) the number of such units utilizing evapotranspiration septic systems exceeds eleven (11), or both.

If such actual total annual depletions are determined by the Division Engineer for Water Division No. 1 to exceed ten (10.0) acre-feet for one or both of the foregoing reasons, Applicant shall be required to replace an additional amount of water equal to the amount by which ten (10.0) acre-feet is exceeded by the sum of: a) ten (10) per-cent of such diversions in excess of 78.4 acre-feet; plus b) ninety (90) per-cent of the amount of such diversions in excess of 78.4 acre-feet which is attributable to those such units in excess of eleven (11) utilizing evapotranspiration septic systems.

3). Said wells and/or collection gallery to be constructed in the alluvium of the Little Thompson River shall be equipped with totalizing flow meters approved by the Division Engineer for Water Division No. 1. On or before February 1 of each year, Applicant shall certify in writing to said Division Engineer the total amount of diversions through said wells and/or collection gallery during the preceding calendar year, as shown on said totalizing flow meters.

C. During years when the total amount of depletions required to be replaced by Applicant equals ten (10.0) acre-feet, four (4.0) acre-feet of said amount shall be replaced by reduced diversions at the headgate of the Culver Lateral Ditch, and six (6.0) acre-feet shall be released from Pinewood Springs Reservoir at the direction of the Division Engineer for Water Division No. 1. During years when the total amount of such depletions is more or less than ten (10.0) acre-feet, forty (40) per-cent of such depletions shall be replaced

by reduced diversions at the headgate of said Ditch, and sixty (60) per-cent of such depletions shall be replaced by releases from said Reservoir at the direction of said Division Engineer.

17. A measuring device approved by the Division Engineer for Water Division No. 1 shall be installed at the outlet of Pinewood Springs Reservoir in order to measure releases into the Little Thompson River.

18. Usage of water supplied by Applicant's central water system shall be restricted to in-house uses only. Applicant shall be responsible for compliance with this and all other conditions set forth in this Decree.

19. In order to facilitate the administration of the plan for augmentation approved herein, applications to adjudicate additional wells and/or collection gallery constructed by Applicant in the future shall be filed in this Court.

20. Applicants seven (7) shares of the capital stock of the Culver Irrigation Company shall remain available for the purposes of the plan for augmentation set forth herein until three years after full development in the Pinewood Springs Subdivision has been reached, or until said plan is no longer in effect, whichever occurs first. From and after three years following the date on which full development in said Subdivision has been reached and so long thereafter as said plan for augmentation remains in effect, six (6) shares of said stock shall remain available for the purposes of said plan and shall not be conveyed or used for any other purpose. For the purposes of this Decree, full development in said Subdivision shall have been reached when the Pinewood Springs Municipal Water System is serving the maximum number of single-family equivalent residential units which may be served in said Subdivision as presently platted, or as it may be replatted to reduce the total number of such

units which may be served. If the official plats for said Sub-division should be amended to reduce the total number of such units which may be served so that less than six (6) shares of said stock are necessary to replace depletions by said Subdivision at full development this Decree may be amended accordingly upon proper application to this Court.

21. So long as the Findings of Fact, Conclusions of Law and Decree herein remain in force and effect, the water rights represented by the shares of the capital stock of the Culver Irrigation Company which are required by this Decree to remain available for the purposes of the plan for augmentation approved herein shall not be subject to abandonment for non-use.

22. The State Engineer, the Division Engineer for Water Division No. 1, and their representatives shall, in the discharge of their statutory responsibilities, recognize the existence and operation of the plan for augmentation including exchange approved herein, and shall administer said plan in accordance with the Findings of Fact, Conclusions of Law and Decree herein.

23. So long as the plan for augmentation including exchange approved herein is being administered in accordance with the terms of the Findings of Fact, Conclusions of Law and Decree herein, and the conditions contained herein are complied with, the State Engineer, the Division Engineer for Water Division No. 1, and their representatives shall not curtail diversions of ground water through Applicant's existing or future wells or collection gallery used to provide a domestic, commercial and municipal water supply to 350 single-family equivalent residential units in the Pinewood Springs Subdivision described herein.

24. It is hereby decreed that as a matter of hydrological and geological fact, pursuant to the operation of the plan for augmentation including exchange approved herein, there is water available for the ground water withdrawals contemplated herein,

and that no material injury to vested water rights or decreed conditional water rights in the South Platte River or its tributaries will result therefrom.

25. The Findings of Fact, Conclusions of Law and Decree herein shall be filed of record in the office of the Clerk and Recorder for Larimer County, and the provisions herein shall constitute covenants running with title to the land in Pinewood Springs Subdivision, and shall be specifically enforceable against Applicant and each lot owner within said Subdivision. The provisions of the Findings of Fact, Conclusions of Law and Decree herein shall be binding upon Applicant and all parties hereto, their successors and assigns.

DATED this 24th day of February,
1976.

EXHIBIT "D"
IN THE WATER COURT IN AND FOR
WATER DIVISION NO. I
STATE OF COLORADO
Case No. W-8017-75

IN THE MATTER OF THE)	
APPLICATION FOR WATER)	
RIGHTS OF PINWOOD)	FINDINGS AND RULING OF
SPRINGS CORP.)	THE REFEREE AND DECREE
)	OF THE WATER COURT
IN LARIMER COUNTY)	

The Application for Water Storage Right filed herein on August 29, 1975, having been referred to the Referee, and the Referee, having reviewed said application and the records on file with the Court in connection therewith, FINDS:

1. The name of the applicant is Pinewood Springs Corp.
2. The mailing address of the applicant is Lyons, Colorado 80540.
3. Due and timely notice of the application herein was given according to law. The time for filing statements of opposition expired on October 31, 1975, and no statements of opposition have been filed.
4. Applicant seeks a conditional decree for Pinewood Springs Reservoir and Dam No. 1, for which the source of water is the run-off and spring flow from the 660 acre drainage basin of Little Elk Park, located above the site of the proposed reservoir and tributary to the Little Thompson River. The date of initiation of appropriation is February 2, 1975, by survey.
5. The legal description of the location of the dam is :

The northwest abutment of the dam will be located at or near a point which bears N 33°40' E a distance of 575 feet from the southwest corner of N½ SW¼ of Section 28, T4N, R71W of the 6th P.M., Larimer Comity, Colorado. The dam will extend 370 foot on an axis of S 55° 30' E from the said abutment. (See survey map filed with application) .

6. The amount of water claimed is 20.0 acre-feet, conditional, with the right to fill and refill continuously.

7. The maximum height of the dam will be 31 feet; the length of the proposed dam is 370 feet. There are no ditches leading to said reservoir.

8. The total capacity of the proposed reservoir is 20.0 acre-feet. The active capacity of the proposed reservoir will be 20.0 acre feet.

9. The water in the reservoir will be used for domestic, municipal, recreation and all other beneficial uses.

10. Granting of the application herein will not cause material injury to the owners or users of vested water rights or decreed conditional water rights.

WHEREFORE, it is the Ruling of the Water Referee that the application herein should be granted and that the applicant is entitled to the following Conditional Decree:

1. Name and address of applicant:

Pinewood Springs Corp.
Lyons, Colorado 80540.

2. Name of Reservoir:

Pinewood Springs Reservoir and Dam No. 1.

3. Legal description of location of dam:

The northwest abutment of the dam will be located at or near a point which bears N 33°40' E a distance of 575 feet from the southwest corner of N½ of SW¼ of Section 28, Township 4 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The dam will extend 370 feet on an axis of S 55°30' E from the said abutment.

4. Source of water:

The run-off and spring flow from the 660 acre drainage basin of Little Elk Park, located above the site of the proposed reservoir and tributary to the Little Thompson River.

5. Date of appropriation: February 2, 1975.

6. Amount of water:

20.0 acre-feet, conditional, with the right to fill and refill continuously.

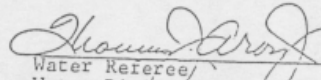
7. Maximum height of dam: 31 feet.
8. Length of dam: 370 feet.
9. Total capacity of the reservoir: 20.0 acre-feet.
10. Use of the water:

Domestic, municipal, recreational, and all other beneficial uses.

In accordance with C.R.S. 1973, 37-92-306, the priority herein awarded shall be junior to all priorities awarded on applications filed prior to 1975. As between all water rights adjudicated on applications filed during calendar year 1975, priorities shall be determined by historical dates of appropriation and not affected by the date of entry of ruling.

It is further ordered that the conditional water right awarded herein is hereby continued in full force and effect until 1980. If the applicant desires to maintain said conditional water right, an application for a quadrennial finding of reasonable diligence shall be filed in the Water Court on or before _____ February _____, 1980, or a showing made on or before such date that said conditional water right has become an absolute water right by reason of completion of the appropriation.

DATED this 27th day of February, 1976.


Water Referee/
Water Division No. 1